

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OLASEBIKAN N. AKINMULERO,

Plaintiff,

v.

DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendant.

Cause No. C20-1135RSL

ORDER

This matter comes before the Court on defendants' "Motion and [Proposed] Order Regarding Briefing Schedule" (Dkt. # 36) and plaintiff's "Motion for 'Oral Argument Requested'" (Dkt. # 37). Having reviewed the memoranda submitted by the parties, the Court finds as follows:

On August 6, 2020, plaintiff's application to proceed *in forma pauperis* was granted and his complaint was accepted for filing. The Court declined to issue summons, instead requiring plaintiff to file an amended complaint specifying the relief requested and identifying the acts of which each defendant is accused. Plaintiff timely filed an amended complaint, alleging that the Department of Homeland Security (and possibly the United States Citizenship and Immigration Service) had acted arbitrarily and/or in violation of the law when it requested that plaintiff file a form I-212 seeking permission to reapply for admission to the United States. Plaintiff also alleged that he had previously been granted certain forms of relief by the District Court of

1 Arizona and that the decision effectively bars defendants from requiring a form I-212. Summons
2 was issued.

3 The Court has not reviewed or ruled on the merits of plaintiff's claims. Allowing
4 summons to issue meant only that the claims would not be dismissed *sua sponte* and that
5 defendants would be notified of the claims and required to defend against them. To that end, the
6 Court issued an order requiring the parties to make initial disclosures and provide a joint status
7 report. Instead, defendants filed a motion for a briefing schedule, asserting that plaintiff's claims
8 are brought pursuant to the Administrative Procedures Act and can be decided through cross-
9 motions for summary judgment. Defendants filed the administrative record related to plaintiff's
10 application for adjustment of status in March 2021.
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12 Plaintiff opposes the request to proceed directly to summary judgment. He points out that,
13 in addition to an APA claim, he alleges that defendants' actions are barred by the doctrines of res
14 judicata and/or collateral estoppel, based on the earlier District Court of Arizona ruling in his
15 favor. Defendants failed to file a reply and have not shown that plaintiff's claims are based
16 solely on the administrative record.
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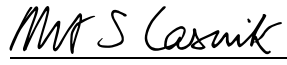
18 Plaintiff also filed a motion requesting oral argument in which he seeks an evidentiary
19 hearing on his claims. That request is premature. There are no motions or other requests for
20 relief pending that would necessitate oral argument or an evidentiary hearing at this point.
21 Plaintiff's amended complaint presents allegations of wrongdoing, it does not prove them.
22 Plaintiff must investigate his allegations and prove his claims by a preponderance of the
23 evidence through a written motion or at trial.
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28 ORDER - 2

1 For all of the foregoing reasons, defendants' motion for a briefing schedule and plaintiff's
2 motion for oral argument are DENIED. The Clerk of Court is directed to issue a case
3 management order with a trial date of March 7, 2022.
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5 Dated this 16th day of August, 2021.

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7 Robert S. Lasnik
8 United States District Judge
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